

Proposed Community Association Manager Licensing Rules – For Review and Comment Only (H Rules: Exceptions and Director Review of Initial Decision)

H-1) Written form, service and filing requirements.

- 1) All designations of record, requests, exceptions and responsive pleadings (“pleadings”) must be in written form, mailed with a certificate of mailing to the Director.
- 2) All pleadings must be received by the Director by 5:00 p.m. on the date the filing is due. A pleading is considered filed upon receipt by the Director. These rules do not provide for any additional time for service by mail.
- 3) Any pleadings must be served on the opposing party by mail or by hand delivery on the date which the pleadings are filed with the Director.
- 4) All pleadings must be filed with the Director and not with the Office of Administrative Courts. Any designations of record, requests, exceptions or responsive pleadings filed in error with the Office of Administrative Courts will not be considered. The Director’s address is:
Division of Real Estate
1560 Broadway, Suite 925
Denver, Colorado 80202

H-2) Authority to review

- 1) The Director hereby preserves the Director’s option to initiate a review of an initial decision on his/her own motion pursuant to § 24-4-105(14)(a)(ii) and (b)(iii), C.R.S. outside of the thirty day period after service of the initial decision upon the parties.
- 2) This option to review will apply regardless of whether a party files exceptions to the initial decision.

H-3) Designation of record and transcripts

- 1) Any party seeking to reverse or modify the initial decision of the administrative law judge must file with the Director a designation of the relevant parts of the record for review (“designation of record”). Designations of record must be filed with the Director within twenty days of the date on which the Director mails the initial decision to the parties’ address of record with the Director.
- 2) Within ten days after a party’s designation of record is due, any other party may file a supplemental designation of record requesting inclusion of additional parts of the record.
- 3) Even if no party files a designation of record, the record must include the following:
 - a) All pleadings;
 - b) All applications presented or considered during the hearing;
 - c) All documentary or other exhibits admitted into evidence;
 - d) All documentary or other exhibits presented or considered during the hearing;
 - e) All matters officially noticed;
 - f) Any findings of fact and conclusions of law proposed by any party; and
 - g) Any written brief filed.

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- 4) Transcripts: transcripts will not be deemed part of a designation of record unless specifically identified and ordered. Should a party wish to designate a transcript or portion thereof, the following procedures will apply:
 - a) The designation of record must identify with specificity the transcript or portion thereof to be transcribed. For example, a party may designate the entire transcript, or may identify witness(es) whose testimony is to be transcribed, the legal ruling or argument to be transcribed, or other information necessary to identify a portion of the transcript.
 - b) Any party who includes a transcript or a portion thereof as part of the designation of record must order the transcript or relevant portions by the date on which the designation of record must be filed (within twenty days of the date on which the Director mails the initial decision to the parties).
 - c) When ordering the transcript, the party must request a court reporter or transcribing service to prepare the transcript within thirty days. The party will timely pay the necessary fees to obtain and file with the Director an original transcription and one copy within thirty days.
 - d) The party ordering the transcript will direct the court report or transcribing service to complete and file with the Director the transcript and one copy of the transcript within thirty days.
 - e) If a party designates a portion of the transcript, the opposing party may also file a supplemental designation of record, in which the opposing party may designate additional portions of the transcript.
 - f) An opposing party filing a supplemental designation of record designating additional portions of the transcript must order and pay for such transcripts or portions thereof within the deadlines set forth above. An opposing party must also cause the court reporter to complete and file with the Director the transcript and one copy of the transcript within thirty days.
 - g) Transcripts that are ordered and not filed with the Director in a timely manner by the reporter or the transcription service due to non-payment, insufficient payment or failure to direct as set forth above will not be considered by the Director.

H-4) Filing of exceptions and responsive pleadings.

- 1) Any party wishing to file exceptions must adhere to the following timelines:
 - a) If no transcripts are ordered, exceptions are due within thirty days from the date on which the Director mails the initial decision to the parties. Both parties' exceptions are due on the same date.
 - b) If transcripts are ordered by either party, the following procedure will apply. Upon receipt of all transcripts identified in all designations of record and supplemental designations of record, the Director will mail notification to the parties stating that the transcripts have been received by the Director. Exceptions are due within thirty days from the date on which such notification is mailed. Both parties' exceptions are due on the same date.

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- 2) Either party may file a responsive pleading to the other party's exceptions. All responsive pleadings must be filed within ten days of the date on which the exceptions were filed with the Director. No other pleadings will be considered except for good cause shown.
- 3) The Director may in his/her sole discretion grant an extension of time to file exceptions or responsive pleadings, or may delegate the discretion to grant such an extension of time to the Director's designee.

H-5) Request for oral argument.

- 1) All requests for oral argument must be in writing and filed by the deadline for responsive pleadings.
- 2) It is within the sole discretion of the Director to grant or deny a request for oral argument. If oral argument is granted, both parties will have the opportunity to participate.
- 3) If a request for oral argument is granted, each side will be permitted ten minutes of oral argument unless such time is extended by the Director.